PROVINCIAL POLITICS.

HON. OLIVER MOWAT,

TO HIS CONSTITUENTS,

AT

EMBRO AND PLATTSVILLE,

DECEMBER, 1889.

No. 2.

History of the Separate School System in Ontario and Quebec, and a detailed account of Amendments to the Act in this Province, since 1871.

APPENDIX:

Extracts from the Debates on Confederation Resolutions, 1864.— Questions submitted to Court of Appeal re Separate School Act and Answers thereto.

TORONTO, JANUARY, 1890.

Toronto:
PRINTED BY HUNTER, ROSE & COMPANY.
1890.

THE

SEPARATE SCHOOL SYSTEM

IN

ONTARIO.

The following is a report of that part of Hon. Mr. Mowat's speeches, delivered to his constituents, partly at Embro, December 6th, and partly at Plattsville, December 9th, 1889, on the Separate School question, giving a history of the inauguration of the Separate School system and its present position. Mr. Mowat said:—

Our assailants in a new-born zeal for religion affect to be concerned for Protestantism if the public confidence in us continues. They affect to consider us as sold to the Church of Rome, and therefore unsafe custodians of the rights and interests of the Protestant population. This is about the last charge I should have expected to see made against myself or my colleagues, however great the straits of our opponents, or however desperate their political prospects. I have no doubt their leaders and newspaper writers have many a laugh amongst themselves at their party using "no-Popery" as their war cry against the present Ontario Government. But as a religious cry has always some effect, it seems in the present case to have carried away some intelligent and good men here and there who have no political purpose to serve, and no known leaning in favor of the party that is using the cry. The cry being resorted to, it has to be discussed. One of the grounds on which our assailants pretend to base their ridiculous and groundless charge is, the amendments which, with the concurrence of all parties, have from time to time been made in the Separate School law as it stood at the time of Confederation.

I have no responsibility for the state of the Separate School law as it then stood. I should greatly prefer, and I have always in the common interest preferred, that the children of Roman Catholics and Protestants should be educated together in our Public Schools, as well as in our High Schools and Colleges. But in spite of all who took that view, Roman Catholics have had Separate Schools in this Province for nearly half a century. The first Act for their establishment was passed as far back as 1841. In 1844

REV. DR. RYERSON

became Chief Superintendent of Education, and he filled that office with acknowledged ability from 1844 to 1876. Dr. Ryerson was one of those who did not like Separate Schools. He thought them needless (as he himself said), and at the same time injurious to their supporters ; and in the common interest he preferred mixed schools, so conducted as not to disturb the consciences of parents or children, Protestant or Roman Catholic. But he found difficulties which he thought insuperable, in consequence both of the doctrine of the Church of Rome with respect to schools, and the anxiety of the Protestants of Quebec to retain the Protestant Separate or Dissentient schools in that section of Canada. Dr. Ryerson thus explained the first difficulty, in one of his writings before Confederation :—

"Separate School education is now a dogma of the Roman Catholic Church, as much as the immaculate conception is. In 1850 the Roman Catholic College of Thurles in Ireland passed a statute condemnatory of mixed education ; the Roman Catholic Provincial Colleges of Baltimore and Quebec have since done the same. These statutes have been ratified by the Pope. This is therefore the dogma of the Church, however much it may fall into disuse in some places, as Sir Thomas N. Redington says it does in some places in Ireland. But as a dogma no member of the Roman Catholic Church, however liberal, and however he may disregard it in the education of his own children, can possibly oppose it. *It is therefore preposterous to think of legislating Separate Schools out of existence.* The Roman Catholic will as hitherto vote against the repeal of the Separate School provisions of the law."

In another of his writings before Confederation Dr. Ryerson made the following statement on the same subject :—

" The Roman Catholics make it part of their religious duty to combine religion with secular education. This cannot be done in the present Common Schools of Upper Canada ; and the consequence obviously is that those people must abandon their religious convictions, or have schools of their own, or get no education at all. The first,

ABANDON THEIR CONVICTIONS,

they will not do. The last,

LEAVE THEM UNEDUCATED,

an intelligent public ought not to admit. So that there is nothing for it but to permit, in a kindly and liberal spirit, the only system by which they can be educated agreeably to their own consciences, and without perpetual misunderstandings with the rest of the people. The system is manifestly to let them educate themselves in their own way."

Dr. Ryerson held strongly the view that it was better that Roman Catholics should be educated, even though the education should be in close connection with the teaching of Roman Catholic dogmas, than that they should not be educated at all. That appears from what I have read, and from other evidence which I shall have occasion to mention later on. It is also the view which Protestants have always taken.

So far the learned Chief Superintendent was dealing with the difficulty from the Roman Catholic side. In another place he pointed out the further difficulty in the way of abolishing Separate Schools, from the Lower Canada Protestant side.

"The question is not whether Separate Schools are inexpedient, not whether the permission of them is a wise or unwise provision, nor whether in certain places they are beneficial or injurious; but the question is, whether the Roman Catholic minority of Upper Canada should be treated the same as the Protestant minority of Lower Canada; that if the latter has legal provisions for Dissentient Schools where they wish to establish them, whether the former should not have similar provision for Separate Schools where they wish to establish them. The Dissentient Schools, from the greater wealth of Protestants, may in some instances lessen the means of supporting the Common Schools in Lower Canada to a much greater extent than the Separate Schools lessen the means of supporting the Common Schools in Upper Canada. But that is not the question. The question is, shall the Protestants of Lower Canada and the Catholics of Upper Canada stand on equal ground and have equal rights in the provisions of the school law. . . I have indeed desired to change this state of things in both Upper and Lower Canada. I have gone so far as to confer with the leading Protestants of Montreal, including Presbyterians, Congregationalists and Methodists, and said to them if they would consent, and get any sufficient evidence of consent from the Protestant inhabitants of Lower Canada, to the abolition of the clauses of the law for the establishment of Dissentient Schools, I would urge the abolition of the clauses for the establishment of Separate Schools. They replied, they could not consent to it—it could not be done without the greatest injustice and injury to the Protestant inhabitants of Lower Canada. I then said the clauses of the law for Separate Schools in Upper Canada must remain equally just with those for the establishment of Dissentient Schools in Lower Canada."

I understand that the objection of the Church of Rome to schools not under the direction of that Church has been repeatedly

renewed since Dr. Ryerson's time; and it is a well-known fact that in the United States, wherever the Roman Catholics are numerous enough and have the means, they

VOLUNTARILY SUPPORT SEPARATE SCHOOLS,

though they are taxed for Public Schools which they do not make use of. In our own country it has been stated in a public journal that one of the Bishops has lately issued this announcement:— "Every Catholic ratepayer, living within the legal limits of a Separate School, shall pay his school taxes to such school under the penalty of being refused the Holy Sacraments." I understand this not to be the announcement of a new dogma, but a reminder of the already existing position of the Church of Rome on the subject. You and I may greatly regret that position, but we cannot change it, nor can the Roman Catholic people change it if they desired. They may leave their Church if they think its position on that or any other matter calls for such a step, but they have no more authority over the dogmas of the Church than we Protestants have.

Holding the views expressed in the extracts from Dr. Ryerson's writings which I have read, while the Chief Superintendent on the one hand resisted successfully legislative proposals made to Parliament from time to time in the interest of Separate Schools, when he thought the proposals objectionable, he on the other hand gave his approval and aid in regard to such other legislative suggestions on the subject as he thought just or reasonable. These were of various degrees of importance, and were adopted in Acts passed in 1846, 1850, 1851, 1853, 1855, 1857, and 1863. The amendments made in Dr. Ryerson's time, with his aid and concurrence, were perhaps reasonable enough if Separate Schools were to continue; but the later ones, at all events, were objectionable to those opponents of Separate Schools who did not despair of procuring their abolition in Upper Canada.

THE HON. MR. BROWN,

who was the great Liberal Chief in my early political life, was the leader of those who did not so despair until after all these amending Acts had been passed. There was in consequence much hard hitting on the subject between him and Dr. Ryerson, as some amongst you well remember. Mr. Brown's championship of Protestant interests has been mentioned of late by some of our assailants in a way to indicate that they considered a comparison

with him to be a blow to the Ontario Government, because that Government receives a considerable support from Roman Catholics; and many Protestants assume that Roman Catholics always vote with exclusive reference to the relation of a party or a candidate to the Church of Rome and to their people as a body. But the fact is, that for years before Mr. Brown's old fight about Separate Schools and some kindred subjects, the great body of the Roman Catholics of Upper Canada were on the Reform side; and during this period Mr. Brown and they were in entire accord as regards political action. He himself in 1871 pointed this out in language which I shall read:

"In the early days of the political history of Upper Canada *the great mass of the Roman Catholics were earnest and reliable members of the Reform party.* They suffered from Downing Street rule, from family compactism, from a dominant Anglican Church establishment, and from clergy reserves, rectories and ecclesiastical disabilities in common with the numerous Protestant bodies, who, with them were insolently styled "dissenters"; *and they fought the battle of civil and religious liberty and equality side by side with their Protestant fellow-Reformers.* And had Upper Canada remained as it then was—a separate Province—they would, I doubt not, have fought the same battle up to the hour of its final triumph. The union of Upper and Lower Canada in 1841 was the commencement of a change. The French Canadian element then came into the political field and gave the Catholics a position of dominance they had not previously held. From 1843 (when Mr. Baldwin as leader of the Upper Canada Reformers formed a political alliance with Mr. Lafontaine as leader of the French Canadians) *up to the year 1850 the Protestant and Catholic Reformers continued to act together harmoniously. The Globe* was the recognized organ of the party in Upper Canada, and I remember with pleasure the intelligent and cordial manner in which the Irish Catholics through these years sustained all liberal and progressive measures. We were then fighting the battle of Responsible Government in opposition to Sir Charles Metcalfe and his Conservative advisers."

The controversy after 1850 about Separate Schools and French Canadian aggressions led to the estrangement of the Roman Catholic people from the Reform party as led by Mr. Brown. On the other hand, the Protestants of Lower Canada as a body gave him no help. As regards educational matters, they were as anxious to retain their Dissentient or Separate Schools as the Roman Catholics of both Provinces were to retain the Roman Catholic Separate Schools in Upper Canada; and it was not unnatural that the Lower Canada Protestants should not unite in any

MOVEMENT AGAINST THE R. C. SEPARATE SCHOOLS

in the one section of the Province, while they wished to preserve their own Separate Schools in another section. But in 1864

political parties had become so equally divided that the Conservatives of Upper Canada, and the French as well as English-speaking populations of Lower Canada, were convinced that some such constitutional changes as Mr. Brown had advocated must be accepted; and the Government entered into negotiations for this purpose with Mr. Brown and his friends. A scheme for a new Constitution fairly satisfactory to all was the result, and was the basis of the B. N. A. Act, 1867. By this new Constitution Mr. Brown accomplished for his own Province the great purpose of the agitation which he had led. His own Province had always been his chief concern; and it was his championship of Upper Canada interests for which he had been distinguished. By

THE CONSTITUTION OF 1867,

there was to be a Federal Parliament, with jurisdiction over all matters of common interest, and in this Parliament the Provinces were to be represented on the basis of population, which had been the great constitutional demand of the people of Upper Canada. In this Parliament, if under the new Constitution Canada had consisted of old Canada only, the Protestants would have had a considerably larger representation than before as compared with the Roman Catholics. The Protestant Province of Upper Canada by its population would have had in the new House of Commons 82 representatives instead of 65, as before; while the representation of Roman Catholic Lower Canada would remain at 65. But the representatives of the Maritime Provinces agreed to enter the union, and the majorities of their populations were Protestant. By their union with us the preponderance of Protestants was still greater. Thus, as regards matters of common interest to both or all the Provinces, the new Constitution secured to us the great reform of "Representation by Population;" and other matters were placed to a large extent beyond the

REACH OF OUTSIDE INTERFERENCE

by assigning them to a distinct Provincial Legislature. By this means our Provincial institutions and laws became more secure against Lower Canada influence or encroachment than "Representation by Population" alone and a Legislative union would have accomplished; for our local matters were to be absolutely within our own control, subject only to the Governor-General's power of disallowing new Provincial Acts. Under this scheme all matters relating to education, subject to a certain restriction which I shall

mention, were assigned to the exclusive jurisdiction of the Local Legislature; the Roman Catholics of another Province were to have nothing to do with them; a Protestant Legislature in this Protestant Province of Ontario was to have exclusive cognizance of its educational laws, subject to the one restriction referred to. Thus the Public Schools of this Province, in which all Protestants had a common interest, were secured against encroachments from another Province. In return for these great reforms in our Constitution, Upper Canada consented to leave Roman Catholics with their Separate Schools, the absolute abolition of which Mr. Brown had so long vainly endeavoured to procure; the Local Legislature of any Province was not to have power to abolish the denominational schools therein, or to pass any law which should prejudicially affect any right or privilege with respect to denominational schools which any class of persons then had by the existing laws. This provision which made safe the Roman Catholic Separate Schools of Ontario from the Protestant majority there, made safe also the Protestant Schools of Quebec from the Roman Catholic majority in Quebec. The Public Schools of Ontario and the Protestant Schools of Quebec were thus alike made secure; and as regards Ontario there was no longer a possibility of future encroachments from another Province where another creed predominates. That this was the best that could be done in the direction desired by Mr. Brown and Protestant Upper Canada, was manifest then, and to every thoughtful man informed of the facts must be manifest now. The new Constitution had the hearty concurrence of both Provinces, and the warfare which Mr. Brown had conducted with so much ability and energy came to an end. In a letter written and published three or four years afterwards, Mr. Brown thus describes the evils, and the danger, against which he had fought, and which the new Constitution had removed:—

"Although much less numerous than the people of Upper Canada, and contributing to the common purse hardly a fourth of the annual revenue of the united Provinces, the Lower Canadians sent an equal number of representatives with the Upper Canadians to Parliament, and by their unity of action obtained complete dominancy in the management of public affairs. Acting on the well-known adage, "Nous avons l'avantage, profitons-en!" the French Canadians turned the divisions among Upper Canadians to their own advantage in every possible way. Unjust and injurious legislation, waste and extravagance in every public department, increased debt and heavier taxation were the speedy consequences, until the credit of the country was seriously imperilled."

The new constitution did not do as much as was hoped in preventing these evils as regards matters assigned to Dominion juris-

diction, but has been pretty efficient for that purpose, in all the Provinces but one, as regards matters assigned to Provincial jurisdiction. In view of the condition of things which the B. N. A. Act secured to the

PROTESTANT POPULATION OF ONTARIO,

Mr. Brown's feeling, and the general feeling of the Province, towards the Roman Catholic population, Mr. Brown thus expressed in 1871 :—

"I believe it is the universal feeling of Protestant Reformers throughout Ontario—now that French Canadian interference in our affairs has been brought to an end, now that the Protestant majority is completely dominant in our Province, and the Catholics placed, by their scattered position, at disadvantage—that it is the incumbent duty of the Reform party, dictated as well by their most cherished principles as by justice and good policy, that a full share of Parliamentary representation, according to their numbers, and *generous consideration in all public matters*, should be awarded to the Catholic minority."

In being to the best of my judgment and utmost of my power fair to Roman Catholics during my Premiership, I have thus been carrying out the policy and sentiments with respect to them of our lamented old Chief.

The Ontario Opposition are just now affecting to be alarmed about danger to Protestantism; but not, as in those former days, from a Legislature in which Roman Catholic constituencies nearly equalled in number Protestant constituencies, and in which the Upper Canada Protestant majority was often overcome by combinations with French Canadians. The pretended alarm of our political opponents now is from a Protestant Legislature, in which out of 90 members the Roman Catholics have never had more than eight or nine, including in this number Conservatives and Reformers; a Protestant Legislature of a Province so Protestant that we Protestants are five times as numerous as the Roman Catholics; and possess more than five times the wealth; more than five times the number of merchants, manufacturers and other employers of labor; more than five times the number of school teachers and college professors; more than five times the number of students and pupils attending the schools and colleges; and more than five times the number of clergymen and other religious instructors; and Protestants occupy in still larger proportion other positions of influence, such as wardens, reeves, mayors, municipal councillors, Provincial and Dominion officers, judges, magistrates, architects, doctors, lawyers, surveyors, and so

on. It was not legislation from constituencies so constituted, or from a Legislature so constituted, that Mr. Brown, as a strong Protestant, feared, or had reason to fear, future encroachments. His grievance as a Protestant and an Upper Canadian was, of legislation by a Legislature elected by constituencies so constituted that Protestant electors had not a representation therein proportionate even to their numbers; not to speak of their greater proportionate wealth or of other considerations; his complaint was, of legislation for Upper Canada forced on it in such a Legislature by Lower Canada votes, notwithstanding vigorous resistance by a Protestant majority from Upper Canada. Whether an Ontario Government were Conservative or Reform, a pretence of serious danger under our present Constitution would, in Mr. Brown's eyes, strong Protestant though he was, be ridiculous and contrary to common sense; and I venture to say that, when the present excitement passes away, all intelligent Protestants, without distinction of party, will feel this, if they are not perceiving it already. It is easy for our assailants to cry wolf. It is easy for them to say, however falsely, that the Ontario Government and Legislature are slaves to the Romish hierarchy, that we have entered into a conspiracy to destroy our Public Schools, and the like; and those assertions, however false and absurd, may be accepted without question by their political adherents. But what as to others? They need some appearance at least of proof, though vigorous and reiterated assertions sometimes mislead intelligent men to accept very inadequate proof.

What then is the pretended proof of our slavish subserviency to a Church which is not ours? When our assailants go beyond mere vigor of assertion, they generally refer to one or other of three things—(1) excessive patronage to Roman Catholics, (2) the French schools in Ontario, and (3) our Separate School legislation. As to the patronage, the fact is that the aggregate value of the offices given to Roman Catholics is less than the proportion which Roman Catholics bear to the whole population. I dealt with that subject in my speech a few days ago at Woodstock. I showed in the same speech that our course in regard to French Schools was such as to give us a fresh claim on the confidence of the English-speaking Protestant people. I purpose doing the same now in respect of our Separate School legislation, which has been misrepresented and misconstrued.

OUR AMENDMENTS

of the Separate School law, as we found it, were made some years

ago by the Protestant Legislature of the Province, with the concurrence of every member of it, Protestant as well as Roman Catholic, Conservative as well as Reformer; and without a word of objection from any one, clerical or lay, outside of the House. The principal amendments, those most assailed now, were made in 1877 and 1879, when our honored friend, Mr. Brown, the Protestant champion, was alive; and he, like ourselves and other Protestants of that time, saw no particle of objection to the amendments proposed. Dr. Ryerson was also alive and interested in the work to which so large a part of his life had been devoted; and he too suggested no objection. Is it not a very farce to attempt making out of them a mountain of anti-Protestantism and wrong now? The electors so considered at the general elections of 1886, and no doubt will do so in 1890.

Were our amendments reasonable and justifiable? I say they were reasonable, and more than justifiable; and that those now principally assailed were in the interest of Protestants as well as Catholics.

RIGHTS OF SEPARATE SCHOOLS UNDER THE CONSTITUTION.

By the B. N. A. Act the Provincial Legislature has no power to pass any law which shall "prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union." It is further to be noted that these schools, both in Ontario and Quebec, have a right under the Constitution to all legislation requisite for the due execution of the provisions of the Act. This right is manifested, and protected, by an enactment that the Dominion Parliament may "make remedial laws" for the due execution of the provisions mentioned "in case any such Provincial law as from time to time seems to the Governor-General in Council requisite" for such due execution, is not made by the Provincial Legislature. I shall read to you the exact words of the Act:—

"In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, *the Parliament of Canada may make remedial laws for the due execution of the provisions* of this section and of any decision of the Governor-General in Council under this section." (Sub-section 4 of section 93, B. N. A. Act.)

This provision applies to the Protestant Separate Schools of Quebec as well as to the Roman Catholic Separate Schools of Ontario.

THE QUEBEC SCHOOL SYSTEM

is not quite the same as that of Ontario. In Quebec distinctive religious teaching, Roman Catholic or Protestant, appears to be contemplated for both the Public Schools and High Schools, and for, in fact, all public institutions of learning. Where the majority of the people is Protestant, as in the eastern townships and other Protestant sections, the religious teaching in Public Schools may, by law, be distinctively Protestant; and where the majority are Roman Catholic, as it is in most localities, the teaching is distinctively Roman Catholic. The consequence is that in Roman Catholic localities the Protestants establish Separate Schools, and in Protestant localities the Roman Catholics establish Separate Schools. Public money given by the Legislature, whether for primary or superior education, is divided between Protestant and Roman Catholic institutions. In the case of Primary Schools the division seems to be according to the school population of the locality. In the case of High Schools and other institutions for Superior education, the division seems to be according to the population of the Protestants and Roman Catholics respectively in the Province as a whole. The practical working of the Quebec law is such, I understand, that the Protestant Schools are practically non-sectarian, in consequence, I suppose, of the diversities among Protestants; while the Roman Catholic Public Schools are distinctively Roman Catholic.

OUR UPPER CANADA SYSTEM

had always been different. Here there had been, and still is, an endeavor to avoid occasion for Separate Schools, or other educational institutions of a denominational kind, by so arranging for and conducting the religious teaching and exercises in all the Public Schools and Colleges which receive Provincial aid, that all our youth, Roman Catholic or Protestant, may attend them without offence to their consciences. No Provincial aid is given to denominational High Schools, Universities or Colleges; but public aid was given to primary Separate Schools for many years before Confederation. The consequence of the policy pursued in Ontario has been, that we have probably fewer Separate Schools than we should have if we had adopted the Quebec system; and that we have also fewer denominational High Schools either

Protestant or Roman Catholic; such as there are receive no support from the Provincial Exchequer, nor from taxes for the like purpose.

THE QUEBEC LEGISLATURE

has from time to time since Confederation made amendments to their Separate School law, as the Ontario Legislature has made amendments to the Separate School law here; and I should gather from the last report of the Protestant Committee of Education that the only further amendment they or the Protestants of Quebec are now asking for is as to the division of the school tax paid by incorporated companies. The proceeds of this tax in Quebec is by the present law divided between the Protestant and Roman Catholic Schools according to the population of each in the Province by the last census, and the Protestants desire it to be divided according to the amount of stock held by Roman Catholics and Protestants respectively; which seems most reasonable. In Ontario the tax paid by incorporated companies goes wholly to the Public Schools unless the directors choose to divide it. This they may do by passing a resolution to that effect, and giving notice for the division; and in that case their tax is divided according to the amount of stock held by Protestants and Roman Catholics respectively. The Quebec plan is more favorable to the Roman Catholics of that Province, and the Ontario plan is more favorable to the Protestants of this Province.

THE ONTARIO AMENDMENTS.

It has occasionally been said by political opponents since their No-Popery cry was raised, that all amendments of the Separate School Law should have been refused by the Ontario Legislature and Government; that nothing should have been done by the Provincial Legislature for the convenience of the supporters of Separate Schools, or for enabling them to increase the efficiency of their schools. That has not been the course pursued in Quebec towards the Protestant Dissentient or Separate Schools of that Province. Neither has it heretofore been the doctrine of any party in Ontario, nor of any section of our people. Having reference to the terms of the B. N. A. Act, it has always been my opinion since Confederation, that in the interest of Protestants and of the Province, reasonable amendments should not be refused; that no occasion should be given to Roman Catholics to resort to the Dominion Government or the Dominion Parliament for Separate School legislation under the Confederation Act; that

whatever ought in reason to be done the Provincial Legislature should itself do. The object of our people and their leaders and representatives in agreeing to the terms of Confederation was, to keep the schools of this Province out of the hands of the representatives of Lower Canada, now Quebec; and this we can only do by giving to the Separate Schools such legislation as is reasonable, or as may fairly be deemed reasonable.

Besides, it is for the common interest, that since we must have Separate Schools, machinery should be provided where necessary for making them as efficient as may be, and for enabling them to give a good education, at the expense of the Roman Catholics who wish to support them. I do not know what position Mr. Meredith means now to take in that respect. His party, in their desperation, seem to be urging him, as a matter of party tactics, to go for the repeal of all Separate School legislation and for leaving the law unamended as it stood at the time of Confederation; but in his address to his constituents in 1886 he felt called on, notwithstanding the "No-Popery" cry of the campaign, to make this admission:—

"The maintenance of the Separate School system of the Province is guaranteed to our Roman Catholic fellow-citizens under the Constitution. Some may regret that the necessity for its introduction existed, but it is nevertheless the duty of the Government honestly to administer it, and *make it as efficient as possible, to the end that it may properly perform the functions for which it is designed.*"

All the amendments now assailed were made before the general election of 1886, and were discussed then, with the result that we have in the present Legislative Assembly of ninety members a majority of twenty-four, or not far from two to one. The only legislation since has been one short Act as to the form of Separate School debentures and by-laws, and no one, so far as I know, has ever suggested any objection to this Act.

In a memorandum of mine which was extensively circulated for the purpose of the election campaign of 1886, I asserted with respect to our amendments up to that time, that

"THEY WERE ALL JUST AND REASONABLE AMENDMENTS,"

and that "so they would appear when examined with candor and judgment." That was my deliberate opinion then, and I expressed it frankly, notwithstanding "the No-Popery" cry with which we were assailed. It would be dishonorable and dishonest of me, now that we are again assailed by the same groundless cry, to pretend to hold another opinion than I did then. I am still of

opinion that every one of our amendments was reasonable and just, as every Protestant that knew anything about them thought at the time that they were.

More: I assert confidently that the principal amendments were in the interest of the whole public, Protestant and Roman Catholic, and not of the Roman Catholics only; that not one of them was such as earnest Protestants could not or should not approve of; that, while the amendments were "requisite" from a Roman Catholic standpoint, any of them which did not possess advantages to the whole community were at all events most reasonable amendments. While the "No Popery" cry was in full blast in 1886, one of the most bellicose and extensively circulated of the Conservative journals confessed in one of its early articles that "probably no great harm will come from any one of the extraordinary powers granted to Catholics in school matters." I deny that extraordinary powers have been granted; but the admission that, whether extraordinary or not, no one of our amendments had done, or would probably do, any "great harm," should be borne in mind by anxious Protestants now. The same journal, in a recent article, observed that "all" our amendments are "not bad." I accept this admission so far as it goes, but I assert further, that none of the amendments were bad, and that none have done any harm.

Our assailants speak of the amendments as if they had been made for the sake of the Roman Catholic bishops and priests, and as if there was an antagonism with respect to them between the Roman Catholic clergy and the Roman Catholic laity. But that plainly is not so. The reverse is plainly the case. The clergy and the great mass of the laity are evidently at one, with respect to our amendments. Any antagonism, so far as I have been able to discover, is as to other matters. Our amendments were passed years ago, and not one of them was objected to by any Roman Catholic layman at the time, nor has any Roman Catholic layman intimated to us any objection since. I have not the slightest reason for supposing that up to this moment one sincere Roman Catholic layman is against any of our amendments. I have occasionally heard of Roman Catholic laymen expressing their regret that there were Separate Schools; but from what I have heard from Roman Catholic parents generally, and from other Roman Catholic laymen, I am satisfied that where these schools are established, their wish is to have them as efficient as possible, and to have whatever legislation will help to make them so.

NO DICTATION.

Our opponents speak also of our amendments as made on the demand of the Roman Catholic hierarchy. In like manner they think it useful to assume that whatever appointments of Roman Catholics we make to office are made at the like ecclesiastical dictation. While our Protestant appointments, it seems, are free, our Roman Catholic appointments are only made because dictated by outside influences. I assert the reverse of all this assumption of Roman Catholic dictation. The statements so made are utterly without foundation. In this I can speak, and I do speak, from personal knowledge. Those who make the charges can have no knowledge on the subject. At most they infer them—a few do so in perfect honesty; but more do so not in honesty. The Roman Catholic clergy have not that opinion of our weakness or subserviency which our assailants choose to assert. In fact, during my 17 years' Premiership, there has not been one instance of attempted dictation by the Roman Catholic Hierarchy or clergy; not one to myself as I know, and not one to my colleagues as I am sure. Indeed, as to Separate School legislation, to my recollection not one of the Roman Catholic bishops or clergy has ever written or spoken to me on the subject, or sent me any message or communication.

Further: I have every reason to believe that several of the amendments now assailed were made, not only without any demand or dictation (as our opponents falsely allege) by Bishops or clergy of the Church of Rome, but without even any knowledge on their part of the intention to make these amendments. Most of them, if not all, were made at the suggestion of Roman Catholic laymen. Whatever suggestions in educational matters were made by laity or clergy were made through the Minister of Education for the time being. He received the suggestions and considered them in pursuance of his official duty, and he brought before Council such as he approved of, and such others as he desired the Government as a whole to consider before his approval. In like manner other classes of the community have from time to time wanted legislation—merchants, millowners, dairymen, farmers, doctors, dentists, lawyers, surveyors, mechanics, railway employees, and other wage earners; Episcopalians, Baptists, Methodists, Presbyterians, Disciples, and many others. When the Government thought any proposals so made were reasonable, we gave effect to them. But we did not understand that any who sought for them were dictating to us, or that in taking a favorable view of their representations we were obey-

ing dictates from any of them. We are but doing our duty when we consider the requests of any and every class of the community, and when we give effect to them on a case being made out in their favor. Bishops of the Church of England, and clergymen of various Protestant denominations, have repeatedly interviewed myself about legislation desired, and have done so far oftener than Roman Catholic Bishops or clergymen have interviewed me about anything. Such legislation as my colleagues and myself have thought reasonable and proper we have recommended from time to time to the Legislative Assembly; and the result is to be found amongst our Statutes. When thus interviewed I did not suppose these Protestant Bishops or Protestant clergy were demanding or dictating the legislation they asked for, and they themselves did not think so. Neither had I the slightest reason for regarding the Roman Catholic Bishops or clergy as dictating or demanding anything in respect of any matters about which they ever interviewed myself or any of my colleagues. Roman Catholic Bishops or clergy, any more than Protestant Bishops or Protestant clergy, never asserted or assumed any special claim to be heard, or any right to have any request granted. On the contrary, without any exception, in all our intercourse with Roman Catholic Bishops or clergymen, or with leading Roman Catholic laymen, they assumed and recognized that the whole responsibility of every bit of patronage and of every other act of administration or legislation rested with the Government, as representing a community five-sixths of which are Protestant, as I myself am and as all but one of my colleagues are. They invariably addressed us as having the same absolute discretion to exercise as in the case of other applicants and people, and as needing in the same way to be convinced of the propriety and reasonableness of what was asked.

AMENDMENTS TO SCHOOL ACT REQUISITE.

In the Separate School legislation now on the statute book my colleagues and myself, in common with the whole Legislature, were simply doing what we regarded our duty as representing the whole community. Most of us in the Legislature were Protestants, and all its members, with the exception of perhaps three or four, represented Protestant constituencies. As Protestants we regard the Romish faith with disfavor, but, notwithstanding fundamental differences of religious creed, Protestants should be, and I venture to say that in general they are, broad-minded enough to form a sound and impartial judgment on all reasonable

proposals in regard to matters in which Roman Catholics are concerned. All our amendments were recommended and proposed by the Minister of Education, a Protestant, and were passed without one adverse word in a House composed of 82 Protestants and but eight Roman Catholics. There may from time to time be an honest difference of opinion as to what amendments are requisite or reasonable, and no one can rightfully assume that his view on such a point is the only possible honest opinion. But our amendments when made were thought by all to be reasonable. Not one church or congregation, not one society, not one individual, clerical or lay, suggested that there was in any of them anything wrong or objectionable, from either a Protestant or a Roman Catholic point of view. Disapproval from any quarter was first intimated years afterwards, when a "No-Popery" cry had been raised by our opponents. I submit for the thoughtful consideration of my fellow-Protestants, that opinions formed by all at the time of the amendments being made, and in the absence of excitement, are more likely to be correct than opposite opinions formed subsequently and during a period of religious agitation. I further suggest for their thoughtful consideration, that if the Protestant Legislature of the Province never passes a measure relating to Separate Schools or other Roman Catholic institutions except such as no Protestant at the time thinks unreasonable or open to objection, that Legislature may be confidently assumed to be free from dangerous subserviency to Roman Catholic influence. It is a grand testimony to the present Government that, when our opponents want to make capital against us, they have to resort to statutes passed years ago, without a word of opposition at the time from their leaders or from any quarter whatever.

I have now to speak in detail of the amendments which were assailed in the campaign of 1886, and which are now assailed again from the same quarter. I shall give you the view with reference to which they were recommended by the Government and unanimously passed by the legislature.

THE FIRST AMENDMENT

of the Separate School law was made in 1877, ten years after the Confederation Act. It is the 13th section of the School Act of that year, and its purpose was to remove some practical difficulties in the way of Public School assessments by the municipal officers. By the law at the time of Confederation, Roman Catholics, by giving a prescribed notice, became exempt from the

Public School tax, but the assessor's roll did not distinguish these from other ratepayers. Our amendment of 1877 required that the two classes shuld be distinguished on the assessment roll, and that the roll should show which of the ratepayers were liable for the Public School tax and which were not. The amendment provided also for an appeal to the Court of Revision in case a ratepayer should be wrongly placed; and, as the collection of the Public School tax was at the expense of all ratepayers, Roman Catholic as well as Protestant, the Minister of Education thought that it would be just that the Separate School tax should be collected in the same way where the trustees of any Separate School should prefer this mode of collection; and provision was made for this also. These are the words of the amendment: Municipal Councils were required

"To cause the Assessor of the Township, in preparing the annual assessment roll of the Township, and setting down therein the school section of the person taxable, to distinguish between Public or Separate, and in setting down therein his religion, to distinguish between Protestant and Roman Catholic, and whether supporters of Public or Separate Schools; and the Assessor shall, accordingly, insert such particulars in the respective columns of the assessment roll prescribed by law for the school section and religion respectively of the person taxable."

And it was enacted further, that

"The Court of Revision shall try and determine all complaints in regard to persons *in these particulars alleged to be wrongfully placed upon or omitted from the roll* (as the case may be), and any person so complaining, or *any elector of the municipality*, may give notice in writing to the clerk of the municipality of such complaint, and the provisions of the Assessment Act of 1869 in reference to giving notice of complaints against the assessment roll, and proceedings for the trial thereof, shall likewise apply to all complaints under this section of this Act."

It has been said that this enactment did not give authority to the Court to correct errors in distinguishing between supporters of Public or Separate Schools, but only to determine whether persons were wrongfully placed upon or omitted from the roll. But it is quite clear that this is not so, and that complaint can be made in regard to any "particulars alleged to be wrongfully placed upon or omitted from the roll." The express object was to give that power to the Court of Revision.

An assessor in discharging his duty before completing his roll, serves every ratepayer with a notice informing him (amongst other things) whether he is assessed as a Public School supporter or a Separate School supporter, and thus he has an opportunity

of having an error connected, qnickly by communicating with the assessor. Most of you know that the assessors' duty was to give this information as to how a ratepayer is assessed; and any of you who do not know can learn at once by referring to the R. S. O., 1887, p. 2156, Sch. B., column 7. Further, the appeal provided may be by any ratepayer, and it may be by even a Protestant ratepayer, and either at the request of the Roman Catholic ratepayer wrongly placed, or even contrary to his wish. The mode of appeal is the simplest which ingenuity and experience have yet been able to devise; and it may be in a form requiring the minimum of courage from the ratepayer concerned, or even requiring none at all, which would be the case if taken by a Protestant.

These amendments are among those of which I have said that no Roman Catholic clergyman had anything to do with even suggesting them; and I have reason to believe that no Roman Catholic bishop or priest knew anything of the amendments of 1877 being thought of until he saw the bill after its introduction into the Legislative Assembly. But they were obviously just amendments, and no objection was made to them from that quarter, or any other. The amendments were made in the general interest, and incidentally had advantages for Roman Catholics. To understand this it is necessary to say something of the notice which was necessary in order to exempt a Roman Catholic ratepayer from the Public School tax.

NOTICE CLAIMING EXEMPTION.

This method of exemption was provided for by a statute passed by the old Province of Canada in 1855, thirty-four years ago, and has been in force ever since. The words of the enactment as to notice were these:—

"Every person paying rates, whether as proprietor or tenant, who, by himself or his agent, on or before the first day of March in any year, gives to the Clerk of the municipality notice in writing that he is a Roman Catholic and supporter of a Separate School situated in the said municipality, or in a municipality contiguous thereto, shall be exempted from the payment of all rates imposed for the support of Common Schools and of Common School libraries, or for the purchase of land or erection of buildings for Common School purposes within the city, town, incorporated village or section in which he resides, for the then current year and every subsequent year thereafter while he continues a supporter of a Separate School, and such notice shall not be required to be renewed annually."

This provision was very defective; and it was more defective from a general or Protestant standpoint than from a Roman

Catholic standpoint. That I can easily show you, and it is important that it should be understood. You will observe that the notice might be given by an agent; this agency had not to be created by writing, and proof of it had not to be given to the clerk of the municipality who receives the notice; there was no provision for keeping any record of the notice; the notice might, in point of law, be given for the ratepayer by the priest himself, or by any one else; it might happen to be given without the authority or knowledge of the ratepayer, or to be given under what was erroneously supposed or assumed to be his authority; and it was enacted by the statute which provided for the notice, that "every clerk of a municipality upon receiving any such notice shall deliver a certificate to the person giving such notice to the effect that the same has been given." (26 V., c. 5, s. 15.) Nor did the law require verification of the notice in any other respect. None but a Roman Catholic was entitled to give the notice, but a ratepayer who was not a Roman Catholic might give the notice, and falsely describe himself as a Roman Catholic; or another might give the notice and so describe him; and before our time there was absolutely no provision for correcting these errors.

Again, by the law before Confederation all Roman Catholics who have given notice once are entitled to exemption from Public School rates in the municipality for ever after. Under this law notices had begun to be given as long ago as 1856, twenty-one years before our first amendment. Any one who gave the notice in any of the twenty-one years between 1856 and 1877 was entitled to exemption every year until he chose to give notice of withdrawing from the support of the Separate School. Many of these notices, however, are from time to time lost or mislaid, or perhaps carelessly destroyed, but Roman Catholics who have given the notice are by law entitled to exemption though the notice has not been preserved by the municipal clerk who received it or by his successor In some municipalities, such as Toronto, there had probably been during the period mentioned many thousands of Roman Catholic ratepayers and supporters of Separate Schools. Before our legislation it was commonly understood to be the duty of the clerk, after the assessment roll had been finally revised in all other respects, to examine all these notices, and to enter on the roll for the collector the exemption of the ratepayers named in the notices, or in such of them as had not been lost or mislaid or overlooked; but there was no provision for correcting any errors he might fall into in discharging this duty. He had not to give any notice to the ratepayer that he was

treating him as a supporter of a Separate School. The clerk's work was probably never performed without mistakes. He might by mistake, and sometimes did by mistake, exempt Protestants as if they were Roman Catholics and supporters of Separate Schools. He might in the same way exempt Roman Catholics who wished their school tax to go to the Public School, and had given no notice to the contrary, nor authorized any to be given. He might leave other Roman Catholics to be taxed for Public Schools who had given the necessary notices, and whose notices had been lost, forgotten or overlooked. In all cases the first the ratepayer would know of the wrong might be, and in most cases would be, when the collector came for his taxes. By that time an error through improperly exempting a ratepayer from the Public School tax was practically irremediable; while an error of the opposite kind, namely, in not exempting a Roman Catholic ratepayer who had given the notice, was remediable without difficulty if the ratepayer had received and preserved the clerk's certificate given when the clerk received the notice; though such certificates were not always obtained, and when obtained were seldom preserved by ordinary ratepayers.

It was plainly in the general interest that no man should get exemption unless he was really a Roman Catholic, nor unless being a Roman Catholic he really authorized the notice to be given by the so-called agent; and it was in the general interest that there should be an appeal to prevent improper exemptions. It was also fair to every ratepayer that he should receive notice before it was too late, as to whether by the official roll his school tax was to go to the Separate School or to the Public School; it was fair that the other ratepayers of the municipality should have the same right of objection in regard to this exemption as they have in regard to all other exemptions and assessments; and it was fair that as simple machinery should be provided for appeals at the instance of the ratepayer who has to pay, and of the other ratepayers interested, as in other cases. All these objects were accomplished by our amendments; and it is plain, assert the contrary who may, that the amendments of 1877 were valuable amendments in the general interest.

AMENDMENT OF 1879.

I now come to the amendment of 1879, and of this I am not only able to say positively, as in the case of every other amendment, that it was not dictated by Romish ecclesiastics, but I can

say, on the authority of one of my colleagues, that it was not even suggested by any bishop or priest, or, so far as known, thought of beforehand by any. My colleague informs me that the suggestion came from himself to the Minister of Education, and was made in consequence of the grievance which the amendment was designed to remedy having come to his own knowledge. The grievance was this:—After a year or two's experience of the working of the Act of 1877, it was found that in some localities assessors who were specially hostile to Roman Catholics and to Separate Schools had caused unnecessary and exceptional trouble to ratepayers who supported such schools, by requiring them to prove that they were Roman Catholics and supporters of the Separate Schools, and in other ways. When this was brought to the attention of the then Minister of Education, he considered it a reasonable ground of complaint, and one which in the spirit of the B. N. A. Act should be removed. You will observe that in carrying out the Assessor's duty as to Separate Schools under the Act of 1877, he had been left to find out the facts as well as he could, and by any means with which he chose to be satisfied, as in the case of all other matters which he was required to set down. In practice it was found that, where there was a Separate School, Roman Catholics, with extremely rare exceptions, were, or desired to be, supporters of the Separate School. In most municipalities (so far as I know) there was absolutely no exception to this, and in others the exceptions, if any, were probably not more than as one to a thousand. Most assessors, therefore, in the exercise of their discretion under the Act of 1877, and as a matter of convenience, had been in the habit of accepting the statement of a ratepayer, or of some one on his behalf, that he was a Roman Catholic, as sufficient *prima facie* evidence that he was to be set down as a supporter of the Separate School, leaving any error to be corrected on the ratepayer receiving the notice of the assessment or by the Court of Revision afterwards. The assessor did not usually go to the clerk's office to see about the notices which the clerk or his predecessors had received, as he did not go to the Registry Office to see the entries there before setting a man down as the owner of any property assessed.

The Minister of Education thought that what had thus been the reasonable practice of most assessors might be enjoined by law upon all, subject, like other assessments, to correction by the Court of Revision; and he therefore advised this amendment, which was adopted by the Legislature, and after a lapse of six years or more was for political purposes assailed for the first time by our political opponents:—

"The assessor shall accept the statement of, or made on behalf of, any ratepayer, that he is a Roman Catholic, as *sufficient prima facie evidence* for placing such person in the proper column of the assessment roll for Separate School supporters; or if the assessor knows personally any ratepayer to be a Roman Catholic, this shall also be sufficient for placing him in the last-mentioned column. (26 Vic., c. , s. 26, sub-section 3.)"

This amendment was passed unanimously like all the other Separate School amendments; it was disapproved by no one outside of the House any more than in the House, and until the time of the political cry of "No-Popery" in 1886 not a whisper of objection to the clause had been heard from any quarter. As I have already said the Hon. Geo. Brown, the great champion of Protestantism, was alive at the time, and he was taking an active interest in public affairs. Dr. Ryerson also was still living, and he never ceased to observe with interest all events connected with the Department of which he had been for so many years the chief superintendent. Neither of these distinguished persons suggested any objection to the amendment.

It is to this enactment of 1879 that our assailants think the most plausible objections can now be made from a Protestant standpoint. They declare this to be the very worst of our amendments. They say that it repealed by implication the enactment requiring the written notice as the condition of exemption; that the necessity for that notice had made a Roman Catholic free without any act of his to support a Public School when he wished; and that we deprived him of that freedom by repealing the clause. Opposition journals have been full of articles and letters to this effect, and their public speakers have been eloquent on the grave offence; and yet, so far from the law as to the notice having been repealed, we have actually re-enacted it three times since the B. N. A. Act. I shall give you the dates and shall name the Acts re-enacting it, so that no one can have an honest, intelligent doubt on the subject. We re-enacted it the first time in 1877, and it will be found as section 31 of the Separate School Act, R. S. O., 1877, c. 206, p. 2,143; secondly, in the Act consolidating the Separate School Law in 1886, c. 46, where it is section 41, p. 143; and thirdly, in the R.S.O., 1887, where it constitutes section 407 of the revised Separate School Act, p. 2,483 (chapter 227).

But it is said that, even if the provision as to the notice is still in force in point of law, the practice of the municipalities has been to assume the contrary, and to treat every Roman Catholic as a supporter of Separate Schools whether he has given the notice or not. I am responsible for the law only, not for an

irregular practice of municipal officers or Councils. If the practice has been as alleged, this, I suppose, has been because no one has thought it worth while to interfere. If Roman Catholic ratepayers wanted their school tax to go to a Separate School, and did not take the step required to make the appropriation legal or regular, Protestants, before the present agitation arose, probably regarded the irregularity as a matter which concerned the Roman Catholic ratepayer himself only ; and if no Roman Catholic ratepayer chose to complain, no Protestant ratepayer thought it worth his while to take the trouble. But for the agitation now, I dare say that would be their view still. At all events the Government is not responsible for an irregular practice unauthorized by the law.

If the necessity for this notice makes a Roman Catholic free to support a Public School when he wishes, our legislation makes him more free still, for we retain the notice, and, besides doing so, give to the ratepayer a remedy, which he had not before, in case any one should undertake to give the notice for him without his authority. The remedy given is an appeal to the Court of Revision, as in the case of other complaints in matters of assessment.

The purpose of the amendment is plain. The expression in it, "sufficient prima facie evidence," means not conclusive evidence. This in law is the meaning of the expression ; and it requires no legal knowledge so to understand the enactment. The fact of a ratepayer being a Roman Catholic was to be sufficient evidence if the assessor had no other evidence or knowledge. But he might know that the man was not a Roman Catholic, or he might find at the Clerk's office that the man had not given the notice necessary for his exemption. In such and the like cases this enactment would not apply. If, for any reason or on any view of the enactment or the evidence, a ratepayer should be wrongfully put down as a supporter of Separate Schools, the fact could be shown to the Court of Revision and the error corrected there.

The members of the Government, Roman Catholic and Protestant, have always been at one as to this being the meaning and intention and legal effect of the clause. In fact, after the bill had been introduced with this clause, a Roman Catholic clergyman interviewed a member of the Government on the subject, and urged that the evidence mentioned should be made absolute and not *prima facie* ; it was pointed out to him that this could not be done ; and he was informed that such a provision would, in the judgment of those members of the Government who had then considered the law, be illegal under the British North America

Act. When the bill was in Committee of the Whole a Roman Catholic member of the Opposition made the same suggestion and was answered in the same manner, as my colleague has reminded me. The British North America Act excepted from Provincial authority any law prejudiciously affecting "any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union"; a Roman Catholic had at the Union a right or privilege of supporting, at his option, either Public or Separate Schools, and in the opinion of several members of the Government, the Legislature could not take away this right or privilege, nor pass any law affecting it prejudicially. A memorandum of the Minister of Education published very soon after the passing of the Act may also be referred to as showing the understood purpose of the amendment. This is the memorandum :—

"There has been no change in the principle on which Separate Schools are based, namely, the permission or option which each Roman Catholic has to become a supporter of a Separate School or not. His being a Catholic is merely *prima facie* evidence on which the assessor could place his name among the supporters of the Separate School ; but he cannot do so if the Roman Catholic ratepayer instructs him to the contrary ; and in that case, not being a supporter of a Separate School, he would be liable to Public School rates and entitled to send his children to the Public School. The law permits each Roman Catholic ratepayer his individual option in supporting the Separate School, and provides the proper machinery for having this so settled that he must pay a school rate for one or the other."*

Though we have retained the notice, the importance of it is greatly exaggerated by our opponents. It is said that if, instead of the notice being needed to give the school tax to a Separate School, the only course for a Roman Catholic who wants his rates to go on to the Public School is, to appeal to the Court of Revision, this would be flying in the face of his priest, which a Roman Catholic may not have the courage to do. But if so, would not refusing the request of (say) his priest to sign the notice, or authorise it to be signed for him, require courage too? Would a Roman Catholic who was too weak to appeal not be too weak to refuse to sign the notice or to authorise (say) his priest to do so? If he was resolute enough to send his children to the public school in spite of the censures of his church, would not this require greater courage than refusing to give the notice?

* The High Court of the Province has since declared the effect of the amendment of 1879 to be in all respects as the Attorney-General stated in this speech. The questions submitted by the Minister of Education to the Court, and the answers thereto, will be found on page——.

These considerations do not appear to have occurred to our assailants when they assumed the notice enactment to have been repealed by us, and were endeavoring to make political capital out of the supposed repeal. The notice is not much of a burden; it has to be given but once; it has not to be repeated annually or otherwise; and it is doubted whether the Legislature has even the power to do away with it. It certainly has not attempted to do away with it.

My fellow Protestants in considering this amendment and all others should further bear in mind, that the administration of the law as affected by these amendments is in the hands of Protestants, and not in a single instance of Catholics; for Roman Catholic Separate Schools are only resorted to where the majority of the population in the municipality are Protestants. Protestants being the majority, and probably largely the majority, the assessors they appoint are Protestants; the members of the Municipal Council, or a majority of them, are Protestants; the members of the Court of Revision are Protestants; and in case of an appeal, I believe that in all Ontario there are but two Roman Catholic County Judges. The whole matter is thus in the hands of Protestants; and, obviously, there cannot be any substantial danger of the Act being perverted in the interest of Roman Catholics, contrary to its actual intention and legal meaning.

On the whole, I do not see how any thoughtful man when aware of the facts can have the least doubt that the amending enactments of 1877 and 1879 instead of being objectionable, taken together were great improvements, in the common interest of both Protestants and Roman Catholics.

One newspaper suggests that at the approaching session of the Legislature we "should amend the Separate School Act so as to render it easy for Separate School supporters to become supporters of the Public School." This is one of the many observations one reads or hears which show how much misunderstanding there is among those who write or speak against the Separate School law as it now stands. The fact is, that nothing can be more easy and simple than the way already provided. All that a Separate School supporter has to do is, to give notice to the Clerk of the municipality that he wishes to withdraw from the support of the Separate School, and the thing is done. (R.S.O., c. 227, s. 47.) Thenceforward he is no more liable to be rated for the Separate School than a Protestant is. The method provided is the extreme of simplicity.

So much for the two oldest of the amendments now assailed.

The attacks on them probably misled more of the electors than the attacks made on our subsequent amendments, which I shall now notice more briefly.

AMENDMENT OF 1881—LANDLORD AND TENANT.

The next amendment now assailed was passed in 1881, eight years ago. The occasion for it was this. The law as it stood at the time of Confederation enabled a Roman Catholic proprietor or tenant to become exempt from Public School rates, but omitted to provide what the rule was to be in case of the landlord and tenant not being of the same creed, and this point was in more or less doubt. By law property is, for general purposes, assessable and assessed against both the landlord and the tenant. Where by the agreement between them the landlord is to pay the taxes, his tenant pays him so much more rent; and thus in all cases, either by express law or in fact, the tenant pays the taxes; and in general it is the tenant's children who are to go to school. It was therefore considered that where the tenant and the landlord were not of the same faith, it should be for the tenant to say whether the rates should go to the Public School or the Separate School.

Then came a second question. A landlord may be compelled to pay the rates of a defaulting tenant, and the landlord may be a Protestant, while the defaulting tenant is a Roman Catholic, or vice versa. To meet such cases, it was enacted that "in any case where as between the owner and tenant or occupant the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same the owner is compelled to pay any such school rate, he may direct the same to be applied to either Public or Separate School purposes." This provision puts Protestant landlords and Roman Catholic landlords in such cases precisely on the same footing, which is surely just and reasonable. The whole clause as passed in 1881 is as follows:—

"To remove doubts it is hereby declared that in any case when under the eighteenth section of the Assessment Act land is assessed against both the owner and occupant, or owner and tenant, then such occupant or tenant shall be deemed and taken to be the person primarily liable for the payment of school rates and for determining whether such rates shall be applied to Public or Separate School purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves shall be allowed to alter or affect this provision otherwise; and in any case where, as between the owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same the owner is compelled to pay any such school rate he may direct the same to be applied to either Public or Separate School purposes."

This section is now in R. S. O., c. 227, s. 51. It is further provided by 50 Vict., c. 39, s. 27; R. S. O., 225, s. 123 (the Public Schools Act), that:—

"Where the Public School rate and the Separate School rate are not the same, if the owner is compelled to pay a school rate in consequence of the default of the tenant to pay the same, he shall only be liable to pay the amount of the school rate of the schools to which in virtue of his right in this behalf he directed his money to be paid."

AMENDMENT OF 1882—TEACHERS' CERTIFICATES.

I have read a statement that "in 1882 an amendment provided that persons holding certificates from County Boards might teach in Public Schools, even though not approved by the Inspector. This is to permit 'religious' persons to teach who could not qualify under the Ontario law." But the statement is a gross misrepresentation. The amendment referred to did not "permit religious persons to teach who could not qualify under the Ontario law." This is the clause which I presume is referred to: (45 Vic., c. 30, s. 1).

"In the case of third-class Public School teachers, certificates which have been or may be awarded by any County Board of Examiners to those passing the professional examination after attendance at a County Model School, shall entitle the holder thereof to be employed as a duly qualified Public School teacher in *any* county in the Province, without being required to obtain the endorsement of the Public School Inspector thereof."

Formerly a teacher who held a Third Class County Certificate could only be employed in the Public schools of that county. He could not be employed in any other county unless the Inspector of such other county should endorse the certificate. When County Model Schools were provided for, and a teacher attending such a school passed the professional examination and got his certificate, it was thought that his qualifications were so assured that he might be allowed to teach in any county without the endorsement of its County Inspector; and that is what this enactment provided. The amendment did not allow religious persons or any others to teach who could not qualify under the Ontario law. The amendment required that not only, as before, the teacher must get his certificate from the County Board of Examiners, but that he should attend the County Model School and pass his professional examination there—requirements not exacted from a third class teacher who was to teach in his own county only. So much for this misrepresentation.

So far from our giving authority to religious persons to teach who could not qualify under Ontario law, it is expressly provided by the Separate School Act that teachers of even Separate Schools are subject to the same examinations and receive their certificates of examination in the same manner as Public School teachers under the general law, except as regards persons who were declared to be qualified as teachers by the law as it stood before Confederation, and over whom in that respect the Ontario Legislature has no jurisdiction.

SEPARATE SCHOOL INSPECTION.

Nor is this the only matter in which the internal affairs of Separate Schools are subject to public supervision. These schools are subject also to such inspection and regulations as the Minister of Education may from time to time see fit to provide, having regard in such regulations to the restrictions imposed by the Confederation Act. The Minister of Education, and all Protestant as well as Roman Catholic Judges, members of the Legislature, heads of the municipal bodies, and Inspectors of Public Schools are by law, in common with Roman Catholic clergymen, official visitors of Separate Schools, with all the rights and privileges which belong to official visitation. So also it is the Judge of the County or Division Court in some cases, and the Minister of Education in others, who decide Separate School election disputes and other disputes specified in our statutes. These examples do not exhaust the statutory provisions on this subject.

AMENDMENTS OF 1884—TAXES OF NON-RESIDENTS.

In 1884 a short Act was unanimously passed, without objection from any quarter, containing two not very important clauses, which, however, are now magnified into proofs of treason to Protestantism. By the first section non-resident Roman Catholics, by taking the proper means, may require their school taxes to be paid to the Separate School of the locality. No reason is suggested why if resident Roman Catholics have this right, non-residents should not have it also. Non-resident Dissentients in the Province of Quebec have a similar right there. The amount received from non-residents by any Separate School in Ontario is probably insignificant.

The second section gave power to the Council of any municipality where the Public and Separate School rates are the same for any year, to agree (if they please) with the Separate School Trustees

to pay to the latter a fixed proportion of the total amount collected for the year for school purposes, instead of the amount, be it more or less, which, on an account being taken, might be found to have been actually collected for Separate Schools. The enactment is to be found in R. S. O., 1887, c. 227, s. 56. What such proportion should be may be calculated to a cent, assuming that all school rates will be paid. In the campaign of 1886 the Conservative journals professed to be afraid that the Municipal Councils would abuse this power, to the advantage of Roman Catholics. This pretence is plainly idle, for the Municipal Councils in such cases are Protestants. As I have already said, wherever there is a Roman Catholic Separate School the Protestants form a majority of the population and a majority in the Municipal Council; the Roman Catholics do not establish a Separate School where they outnumber the Protestants, and therefore control the Public Schools; they establish Separate Schools where their people are a minority in the municipality; and the amendment was made as a matter of possible convenience to the Protestant Council and Roman Catholic Trustees, in case both should for any year desire to make the division in this form.

AMENDMENT OF 1885—HIGH SCHOOL TRUSTEES.

An amendment made in 1885 respecting High Schools in certain cases, is the next in order, and was also assailed in the campaign of 1886, though it had passed unanimously in the previous year after some very mild remarks by Mr. Meredith. This is another of the amendments passed in what was believed to be the interest of Protestants as well as Roman Catholics. By the amendment referred to, now constituting Section 20 of the High School Act, R. S. O., c. 226, power was given to the Trustees of Separate Schools to appoint a member of the High School Board. Why was this? The Municipal Council being Protestants, they hardly ever appointed a Roman Catholic to the High School Board. Indeed not one instance of it was known to the House when this provision was passed. The Minister of Education afterwards discovered that there were a few instances, not in all twenty (so far as known) out of the 624 High School Trustees in the province. To give to the Roman Catholics a Trustee on the High School Board where there were Separate Schools would be agreeable to them, and I perceived that the suggestion was a good one from a Protestant standpoint as well. Protestants pretty generally desire to encourage mixed schools of every class. We think it a good thing for the whole population that our youth of

every creed should be educated together. Any measure which, without doing harm in another direction, would lead to this end, it is, from our point of view, desirable to adopt. Roman Catholics were not, as a rule, sending their children to our High Schools. These schools being under exclusively Protestant management, they looked on them as Protestant schools, and as schools which were for Roman Catholics equally objectionable with the Public Schools, and not so necessary to be made use of though they had no High Schools of their own. If our giving to the Roman Catholics the privilege of appointing a trustee to the High School Board, where they have Separate Schools for the less advanced children, would tend to give them confidence in our High Schools and induce them to send their youth to them, why should we not avail ourselves of this means of attracting them to our High Schools? To add to the High School Board another member, a Roman Catholic, chosen by the Roman Catholics themselves, while it could do no harm, might, as we all thought, be of service in the very interest of these mixed schools, and therefore in the common interest of Protestants and Roman Catholics. It has since been suggested that in such cases still another member should be added to the Board, to be chosen by the Public School trustees; but Protestants are already fully represented by the appointments of the Municipal Councils which are Protestant; and the policy of the law is to give these appointments to the Municipal Councils, and not to the Public School Boards. Speaking of the addition of a Roman Catholic representative of Separate Schools to the High School Board, an Opposition journal has said:—"We do not see that any great harm can result from this arrangement." I should think not. No harm at all can result. On the contrary, good; and good, it is to be hoped, alike to Roman Catholics and to Protestants. The wisdom of the amendment has since been indicated by the fact that there has been a large increase in the number of Roman Catholic pupils attending the High Schools.

CONSOLIDATED ACT, 1886.

A few unimportant amendments were made by the Consolidated School Act of 1886, and some of these, though not so far as I know objected to from any quarter at the time, were cited afterwards as further illustrating the undue Roman Catholic influence to which it was pretended that the Liberal party were subject. One of these amendments was our dropping the clause in previous statutes which required Separate School trustees to send to

the Clerk of the Municipality before the 1st June in every year a list of the Roman Catholic supporters of Separate Schools. This clause was dropped simply because by reason of other changes in the law it had become useless, and had ceased in practice to be observed or called for by separate Municipal Councils or other officers. The list had been necessary when Separate Schools had been supported by fees and other contributions, and was necessary then to show whether Roman Catholics who claimed exemption from Public School rates as supporters of Separate Schools, were in fact supporters of those schools. But the trustees' list became useless when the Separate Schools were supported by rates collected like other school rates, and by ratepayers designated in the collector's roll. The assessors had in effect been substituted for this purpose for the trustees.

A few other objections have been recently made to our legislation on this subject, and I shall, perhaps, speak of these elsewhere. Our assailants must feel their case to be a very hopeless one when the best they can do is to urge again the pretences negatived in so decided a way by the electors in 1886; and to complain of laws passed some years ago with the concurrence of their leaders, and without objection from any other quarter.

EXTRACTS

FROM

DEBATES ON CONFEDERATION.

The following are Extracts from the Debates on the Confederation Resolutions, 1864 :—

Hon. Mr. Brown said :—

"I have always opposed, and continue to oppose, the system of sectarian education, so far as the public chest is concerned. I have never had any hesitation on that point. . . . But while in the conference and elsewhere I have always maintained this view, and always give my vote against sectarian Public Schools, I am bound to admit, as I have always admitted, that the sectarian system, carried to the limited extent it has yet been in Upper Canada, and confined as it chiefly is to cities and towns, has not yet been a very great practical injury. . . . Now it is known to every honorable member of this House that an Act was passed in 1863 as a final settlement of this sectarian controversy. I was not in Quebec at the time, but if I had been here I would have voted against that bill, because it extended the facilities for establishing Separate Schools. It had, however, this good feature, that it was accepted by the Roman Catholic authorities and carried through Parliament as a final compromise of the question in Upper Canada. When, therefore, it was proposed that a provision should be inserted in the Confederation scheme to bind that compact of 1863 and declare it a final settlement, so that we should not be compelled, as we have been since 1849, to stand constantly to our arms, awaiting fresh attacks upon our Common School system, the proposition seemed to me one that was not rashly to be rejected. . . . But it was urged that, though this arrangement might, perhaps, be fair as regards Upper Canada, it was not so as regards Lower Canada, for these were matters of which the British population have long complained, and some amendments to the existing School Act were required to secure them equal justice. Well, when this point was raised, gentlemen of all parts in Lower Canada at once expressed themselves prepared to treat it in a frank and conciliatory manner, with a view to removing any injustice that might be shown to exist; and on this understanding the educational clause was adopted by the Conference.

"Mr. T. C. Wallbridge—That destroys the power of the Local Legislatures to legislate upon the subject.

"Mr. Brown—I would like to know how much power the hon. gentleman

has now to legislate upon. Let him introduce a bill to-day to annul the compact of 1863 and repeal all the sectarian school Acts of Upper Canada, and how many votes would he get for it? Would twenty members vote for it out of the one hundred and thirty who compose this House? If the hon. gentleman had been struggling for fifteen years, as I have been, to save the school system of Upper Canada from further extension of the sectarian element, he would have found precious little diminution of power over it in this very moderate compromise. And what says the hon. gentleman to leaving the British population of Lower Canada in the unrestricted power of the Local Legislature? The Common Schools of Lower Canada are not as in Upper Canada—they are almost entirely Roman Catholic schools. Does the hon. gentleman then desire to compel the Protestants of Lower Canada to avail themselves of Roman Catholic institutions, or leave their children without instruction?"

Hon. Alex. Mackenzie, desiring to explain his position said:—

"I can only tell him (Hon. John Sandfield Macdonald) that I, having struggled as much as any one to prevent legislation tending to break up our Common School system, and having found my efforts utterly ineffectual, do not see that our position would be any worse if the resolutions are carried into law. I formerly stated that I thought the Separate School system would not prove very disastrous if it went no further. I do not now think they will do much harm if they remain in the same position as at present, and therefore, *though I am against the Separate School system, I am willing to accept this Confederation*, even though it perpetuate a small number of Separate Schools. Under the present legislative union we are powerless in any movement for the abrogation of the Separate School system; it is even very doubtful whether we could resist the demands for its extension. We will not be in any worse position under the new system, and in one respect we will have a decided advantage, in that no further change can be made by the Separate School advocates. We will thus substitute certainty for uncertainty."

Interpretation of Separate Schools Act Amendments.

THE DECISION AT OSGOODE HALL.

QUESTIONS SUBMITTED AND THE ANSWERS.

The duty of the Assessor—The Question of Rates when notice has not been given.

It will be remembered that the Minister of Education submitted a number of questions to the Chancery Divisional Court regarding the construction to be placed upon certain amendments to the Separate Schools Act. Decisions on the points submitted were given at Osgoode Hall, by Chancellor Boyd and Mr. Justice Robertson, on the questions, together with the full text of the answers, as follows :—

FIRST QUESTION.

Is or is not a ratepayer, who has not, by himself or his agent, given notice in accordance with the last foregoing section (section 40 of the Separate Schools Act), entitled to exemption from the payment of rates imposed for the support of Public Schools or for other Public School purposes, as in that section mentioned.

Answer—If the assessor is satisfied with the *prima facie* evidence of the statement made by or on behalf of any ratepayer that he is a Roman Catholic, and thereupon (seeking and having no further information) places such person upon the assessment roll as a Separate School supporter, this ratepayer, though he may not by himself or his agent have given notice in writing pursuant

to section 40 of the Separate Schools Act, may be entitled to exemption from the payment of rates for Public School purposes—he being in the case supposed assessed as a supporter of Roman Catholic Separate Schools.

SECOND QUESTION.

Is it or is it not open to the Court of Revision of the municipality, under section 120 (3) of the Public Schools Act, on the complaint of a person placed by the assessor in the column of the assessment roll for Separate School supporters.

Or, on the complaint of any other person being an elector, to try and determine complaints in regard to

(a) The religion of the person placed by the assessor on the roll as taxable as Protestant or Roman Catholic;

(b) Whether such person is a supporter of Public Schools or of Separate Schools within the meaning of the provisions of law in that behalf;

(c) Whether such person has been placed in the wrong column of the assessment roll for the purposes of the school tax;

(d) Whether the name of any person wrongfully omitted from the proper column of the roll should be inserted thereon;

(e) Or any other fact or particular relating to persons alleged to be wrongfully placed upon or omitted from the roll under section 120.

Answer—The Court of Revision has jurisdiction on application of the person assessed, or of any municipal elector (or ratepayer, i. e., in the Separate Schools Act, Sec. 48 (3)) to hear and determine complaints (a) in regard to the religion of the person placed on the roll as Protestant or Roman Catholic, and (b) as to whether such person is or is not a supporter of Public or Separate Schools, within the meaning of the provisions of law in that behalf, and (c)—which appears to be involved in (b)—whether such person has been placed in the wrong column of the assessment roll for the purposes of the school tax. It is also competent for the Court of Revision to determine whether the name of any person wrongfully omitted from the proper column of the assessment roll should be inserted therein upon the complaint of the person himself or of any elector (or ratepayer.) As to the trial of any other fact or particular under sec. 120 of the Public Schools Act, the answers already given appear to exhaust all facts and particulars thereunder.

THIRD QUESTION.

Is or is not the assessor bound to accept the statement of, or

made on behalf of, any ratepayer under section 120 (2) of the Public Schools Act, in case he is made aware or ascertains before completing his roll that such ratepayer is not a Roman Catholic or has not given the notice required by section 40 of the Separate Schools Act, or is for any reason not entitled to exemption from Public School rates?

Answer—The assesser is not bound to accept the statement of, or made on behalf of, any ratepayer under sec. 120 (2) of the Public Schools Act, in case he is made aware or ascertains before completing his roll that such ratepayer is not a Roman Catholic or has not given the notice required by sec. 40 of the Separate Schools Act, or is for any reasen not entitled to exemption from Public School rates.

FOURTH QUESTION.

As recast by counsel on both sides after the argument: —

(a) In case a ratepayer, not being a Roman Catholic, is in any year wrongfully assessed as a Roman Catholic and supporter of Separate Schools, and through inadvertence or other causes did not appeal therefrom, is he or is he not estopped from claiming in such following or future year with reference to the assessment of such year that he is not a Roman Catholic?

Answer—A ratepayer not a Roman Catholic, being wrongfully assessed as a Roman Catholic and supporter of Separate Schools, who through inadvertence or other causes does not appeal therefrom, is not estopped (nor are other ratepayers) from claiming with reference to the assessment of the following or future year that he is not a Roman Catholic.

(b) Is a ratepayer, being a Roman Catholic, and appearing on the assessment roll as a Roman Catholic and supporter of Separate Schools (although he had not given the notice under the 40th sec. of Separate Schools Act) and not having given the notice of withdrawal, mentioned in section 47 of the Separate Schools Act —is he or is he not estopped from claiming in such following or future year that he should not be placed as a supporter of Separate Schools, with reference to the assessment of such year, although he had not given the said notice of withdrawal?

Answer—A ratepayer, being a Roman Catholic, and appearing in the assessment roll as a Roman Catholic and supporter of Separate Schools, who has not given the notice in writing of being such supporter mentioned in section 40 of the Separate Schools Act, is not (nor are the other ratepayers) estopped from claiming in the following or future year, that he should not be placed as a supporter of Separate Schools, with reference to the assessment of

such year, although he has not given notice of withdrawal mentioned in section 47 of the Separate Schools Act.

(c) Under the circumstances stated in either of the last two paragraphs, if the ratepayer himself is estopped, are or are not the other ratepayers of the municipality estopped also, and without remedy by appeal in such following or future year?

The answer to this question was involved in the two previous answers, and was not given separately.